



**US Army Corps
of Engineers**
Louisville District ®

Joint Public Notice

Public Notice No.
LRL-2002-1389-lae

Open Date:
3 Mar 2014

Close Date:
24 Mar 2014

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Ms. Leslie Estill, CELRL-OP-FN, Room 752
P.O. Box 59
Louisville, Kentucky 40201-0059

Phone: (502)315-6711

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA) and for State Water Quality Certification pursuant to Section 401 of the CWA from the Indiana Department of Environmental Management, Office of Water Quality.

APPLICANT: Koetter Group
7393 Pete Andres Road
Floyds Knobs, Indiana 47119

AGENT: Eco-Tech Consultants, Inc.
11321 Decimal Drive
Louisville, KY 40299

LOCATION: Veterans Pkwy & Town Center Dr.
Jeffersonville, Indiana 47130
Latitude: 38.3283
Longitude: -85.7471
7.5 Minute Quad: Jeffersonville, IN

PURPOSE: To complete the development of a commercial retail and business park complex.

BACKGROUND: A DA Permit was issued to the applicant on October 7, 2004, authorizing the discharge of fill material into 1.75 acres of emergent/shrub-scrub wetlands and 600 linear feet of Lick Run Creek to facilitate the development of a commercial retail and business park complex adjacent to Veterans Parkway and Highway 31. In addition to these impacts, the Indiana Department of Environmental Management (IDEM), Office of Water Quality, authorized 0.31 acre of isolated emergent wetlands to be filled in a Water Quality Certification dated January 20, 2004 (IDEM No. 2002-570-10-AJP-A).

The DA Permit was modified in 2007 and 2011 to authorize time extensions to complete the authorized fill. The 2011 modification also authorized an additional 0.6 acre emergent wetland to be filled. The 0.6 acre emergent wetland developed after the DA Permit was issued.

The existing compensatory mitigation associated with the DA Permit and the 2011 modification includes on-site and off-site features. On-site mitigation includes 4,500 linear feet of relocated Lick Run Creek with a

riparian buffer zone and the creation of a 0.6 acre shrub-scrub wetland in the northwest corner of the park complex (see Exhibits 2 and 3). Off-site mitigation includes the creation of 3.10 acres of shrub-scrub wetland, the enhancement of 7.10 acres of forested wetland, and the preservation of 3.9 acres of forested wetland and 2,560 linear feet of Lick Run Creek within a 31 acre site approximately 2 miles downstream of the project area (see Exhibits 1 and 5). The existing mitigation features are at different stages of monitoring and are progressing toward meeting success criteria.

DESCRIPTION OF WORK: To complete the development of the retail and business park complex, 1.5 acres of new emergent/shrub-scrub wetlands would be filled (see Exhibits 2, 3, and 4). These wetlands developed after the initial grading and construction began, except for a 0.08 acre area of wetland W-2A that was included in the original DA Permit but was never filled. The new wetlands have developed due to uneven grading and poor drainage in the undeveloped areas of the park complex.

The 1.5 acres of wetlands proposed to be filled includes wetlands W-4 (0.06 ac), W-8 (0.01 ac), and W-14 (0.06 ac) that were filled without prior authorization. Construction is on-going at the park complex in the non-jurisdictional upland areas.

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES: In order to complete the development of the commercial retail and business park complex, the proposed impacts cannot be avoided due to the dispersed nature of the wetlands across the site. Wetlands W-3 and W-2E are not proposed to be filled. However, wetland W-3 was constructed as a stormwater retention basin and wetland W-2E is contiguous with a roadside ditch (see Exhibits 2 and 3).

The applicant proposes to mitigate the loss of the wetlands under review by creating 1.42 acres of emergent/shrub-scrub wetlands on-site within the existing riparian buffer zone of relocated Lick Run Creek. Mitigation is not proposed for 0.08 acre of wetland W-2A because it is being mitigated under the existing mitigation plan. A minimum of 1.42 acres of emergent/shrub-scrub wetlands would be created by expanding a 1.3-acre area within the floodplain bench of relocated Lick Run Creek on the north side of Veterans Parkway (see Exhibit 6), and by accounting for the development of wetlands within 0.7 acre of the existing floodplain bench of relocated Lick Run Creek (see Exhibits 2 and 3). An additional 0.58 acre of wetland creation is included in the proposal as a contingency plan for unknown site conditions and constraints.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied.

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A DA Permit, if otherwise warranted, will not be issued on this project until a State of Indiana Section 401 Water Quality Certification (WQC) from the Indiana Department of Environmental Management (IDEM) is on file in this office or it is considered waived. This Public Notice serves as the notice for a Clean Water Act Section 401 application for water quality certification from the IDEM. The IDEM will review this proposal for compliance with the applicable provisions of Section 301, 302, 303, 306 and 307 of the CWA, including the state water quality standards currently set forth at 327 IAC 2. They will consider comments regarding this proposal postmarked by the closing date of this notice. Comments to IDEM should be addressed to: IDEM, Office of Water Quality, Section 401 WQC Program, 100 N. Senate Avenue Room N1255, Indianapolis, Indiana 46204. The applicant is responsible for obtaining the certification from IDEM.

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, pre-historical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a DA permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs,

safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, United States Environmental Protection Agency (USEPA), under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. It is presumed that all interested parties and agencies will wish to respond; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>. All comments regarding this proposal should be addressed to Ms. Leslie Estill CELRL-OP-FN at the address noted above and should refer to the Public Notice Number LRL-2002-1389-lae.

If you desire to submit your comments by email, you must comply with the following:

a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2002-1389-lae.

Example:

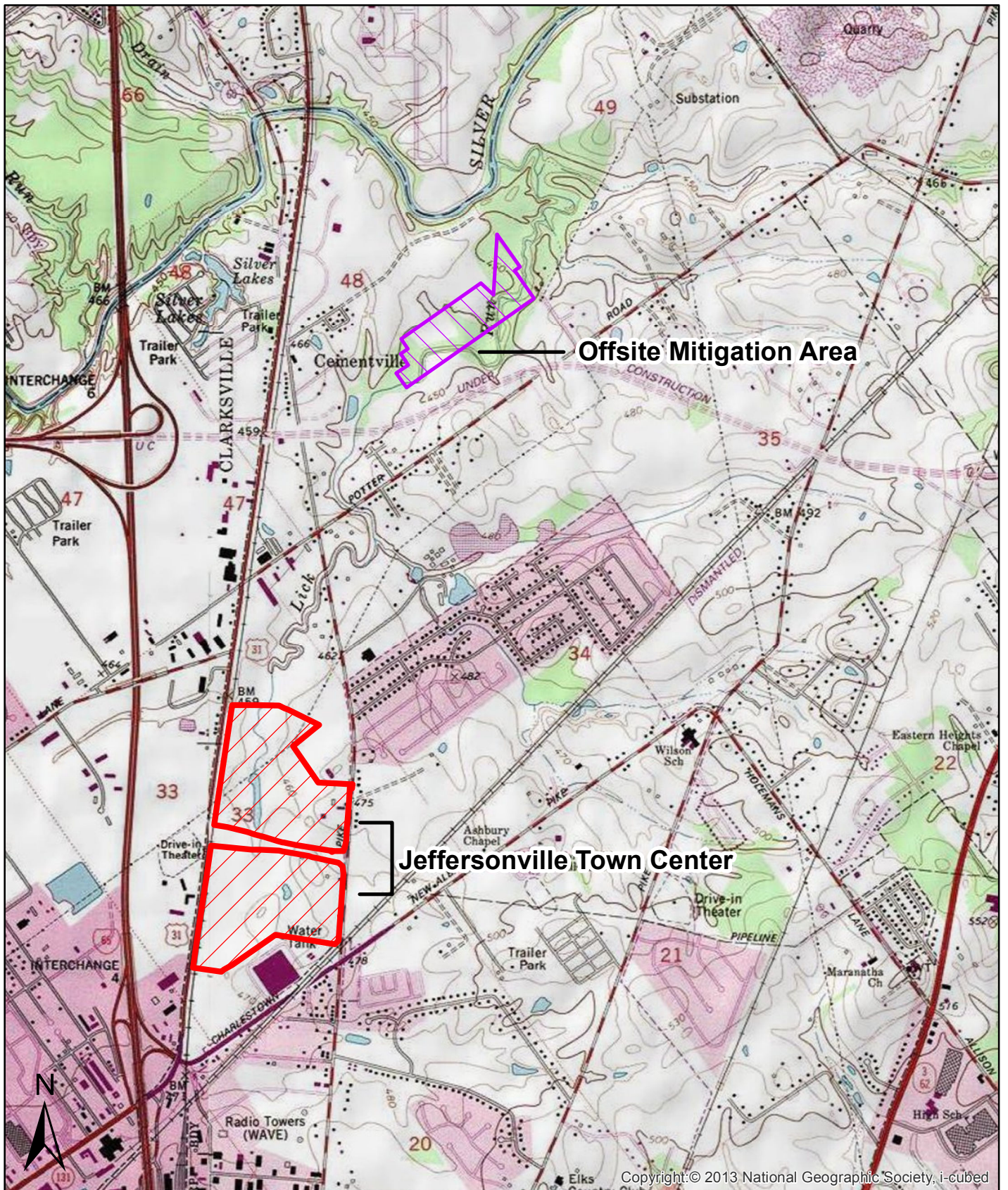
Subject: LRL-2002-1389-lae

b) Provide your physical mailing address and telephone number.

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c) Send your email to: lrl.regulatorypubliccomment@usace.army.mil.

d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.



Koetter Jeffersonville
Town Center
LRL-2002-1389-lae

EXHIBIT 1 OF 6 PROJECT LOCATION MAP



Drawn by: SAS | Print Date: 2/13/14
Prepared For: Koetter Fivestar
ETC File: JV2010003

0 500 1,000 2,000 3,000 4,000 Feet

Imagery Source: USA Topo Maps

Jurisdictional Features			
	Areas, acres		
Feature ID	Total	Impacted	Avoided
<i>North Area</i>			
W-2A	0.25	0.25	-
W-2B	0.03	0.03	-
W-2C	0.12	0.12	-
W-2D	0.03	0.03	-
W-2E	0.04	-	0.04
W-3	1.08	-	1.08
W-4	0.06	0.06	-
W-5	0.06	0.06	-
W-6	0.02	0.02	-
W-11	0.02	0.02	-
W-12	0.03	0.03	-
W-13	0.03	0.03	-
W-14	0.06	0.06	-
<i>South Area</i>			
W-1	0.18	0.18	-
W-7	0.60	0.60	-
W-8	0.01	0.01	-
	2.62	1.50	1.12
	Total	Impacted	Avoided

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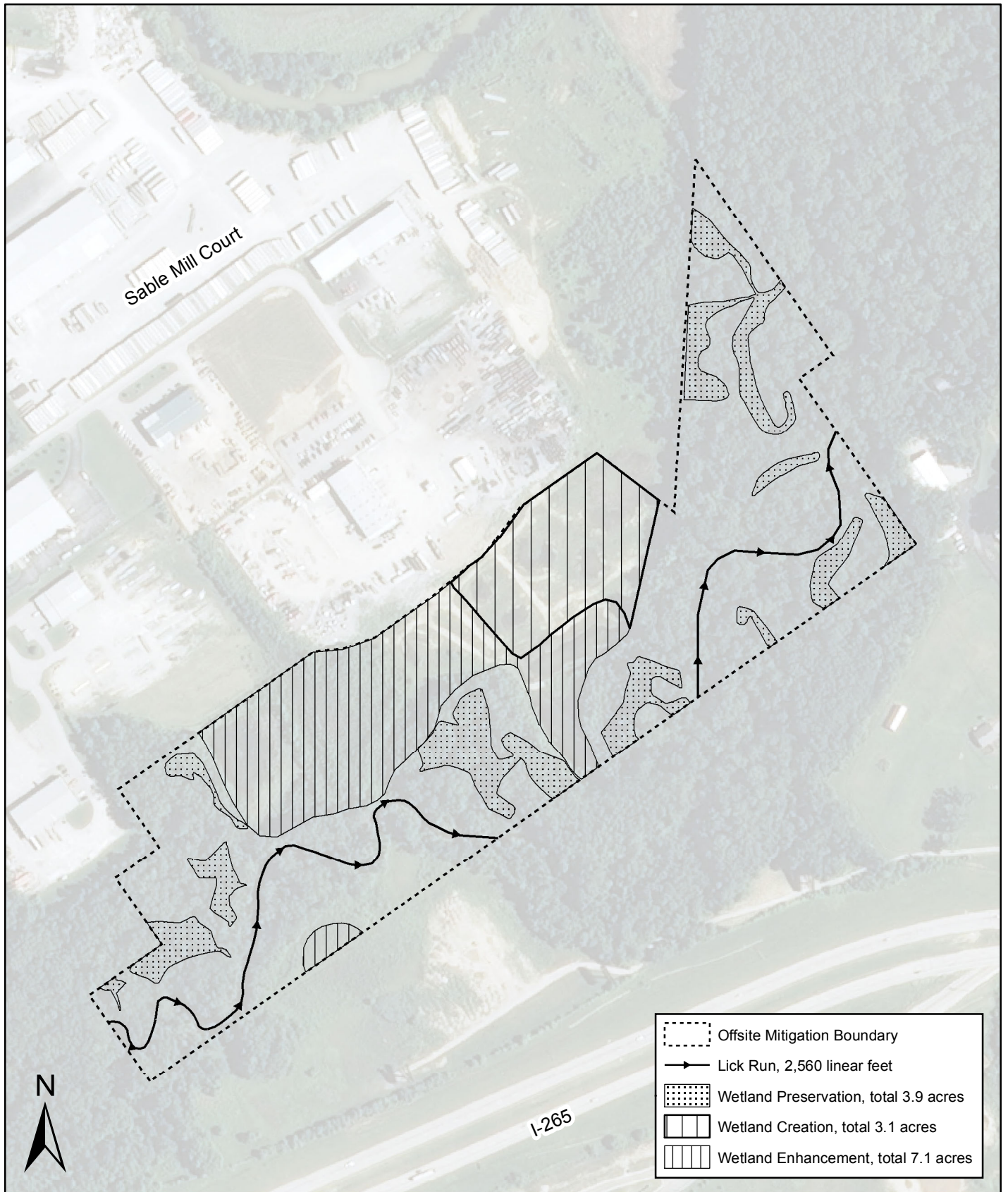
EXHIBIT 4 OF 6
JURISDICTIONAL FEATURES
AND IMPACTS



Drawn by: SAS | Print Date: 2/13/2014

Prepared For: Koetter Fivestar

ETC File: JV2010003



**Koetter Jeffersonville
Town Center
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0 85 170 340 510 680 Feet

Imagery Source: Bing Maps Hybrid, Microsoft Corp. 2010

EXHIBIT 5 OF 6

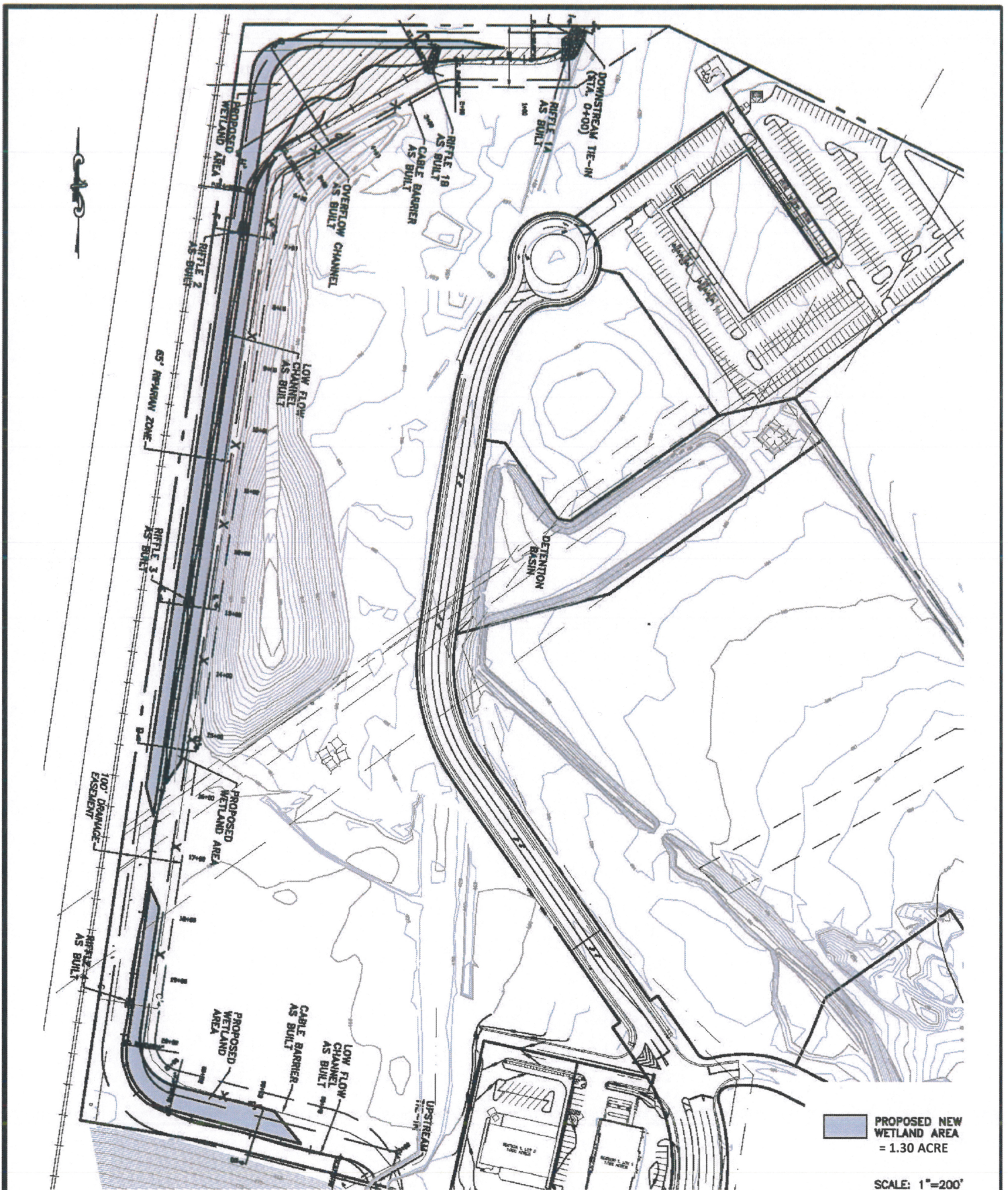
OFFSITE MITIGATION AREA



Drawn by: SAS | Print Date: 2/13/14

Prepared For: Koetter Fivestar

ETC File: JV2010003



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EXHIBIT 6 OF 6
PROPOSED ONSITE WETLAND
CREATION,
NORTH OF VETERANS PARKWAY



Drawn by: RWE Print Date: 2/6/2014

Prepared For: Koetter Fivestar

ETC File: JV2010003